

BOISE, WEDNESDAY, JANUARY 11, 2012, AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**THOMAS E. STEVENSON and VICKI JAN)
STEVENSON, husband and wife,)**

Plaintiffs-Appellants-Cross Respondents,)

v.)

**WINDERMERE REAL ESTATE/CAPITAL)
GROUP, INC., an Idaho corporation.)**

Defendant-Respondent-Cross Appellant,)

and)

**323 JEFFERSON LLC, an Idaho limited)
liability company,)**

Defendant.)

Docket No. 38121

Appeal from the District Court of the Fourth Judicial District, State of
Idaho, Ada County, Hon. Cheri C. Copsey, District Judge.

Moffatt, Thomas, Barrett, Rock & Fields, Chartered, Boise, for appellants.

Risch Pisca, PLLC, Boise, for respondent/

Real estate purchasers Thomas and Vicki Stevenson (the Stevensons) appeal the district court's grant of summary judgment dismissing their unjust enrichment claim against Windermere Capital Group (Windermere), broker to seller 323 Jefferson, as well as the court's award of attorney fees to Windermere. The Stevensons contend on appeal that Windermere was unjustly enriched when 323 Jefferson paid Windermere a commission related to the Stevensons' pending purchase of property from 323 Jefferson, which ultimately did not occur.

BOISE, WEDNESDAY, JANUARY 11, 2012 AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

IN RE:)	
)	
APPLICATION FOR A CUP PERMIT TO)	
EXCEED 45' HEIGHT LIMIT FOR M-1)	
ZONE.)	
_____)	
BURNS HOLDINGS, LLC,)	
)	
Petitioner-Appellant,)	Docket No. 38269
)	
v.)	
)	
TETON COUNTY BOARD OF)	
COMMISSIONERS,)	
)	
Respondent.)	
_____)	

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Teton County. Hon. Gregory W. Moeller, District Judge.

Holden, Kidwell, Hahn & Crapo, PLLC, Idaho Falls, for Appellant.

Kathy Spitzer, Teton County Prosecutor, Driggs, for Respondent.

Burns Holdings, LLC owns 6.5 acres of light industrial zoned land located north of Driggs on Highway 33. The property in question falls within the Driggs City Area of Impact, which subjected the land to the provisions Driggs City Ordinance. One such provision limited structures on light industrial zones to a height of 45 feet.

Burns sought to build a concrete batch plant on the land, which included a 75 foot tall structure. Since the structure exceeded the 45 foot limit, Burns applied for a Conditional Use Permit (CUP) for the concrete batch plant. On July, 2007, the Driggs Planning and Zoning Commission unanimously recommended to the Teton County Board of Commissioners (County) that Burns' application for the CUP be approved. However, the County denied Burns' application during a public hearing on November 15, 2007. The County found that the 75 foot tall structure conflicted with the Driggs Comprehensive Plan, which mandates that the area of

Highway 33 surrounding Driggs remain a “memorable gateway” and preserve the beauty of the Tetons.

Burns then filed a petition for judicial review of the County’s decision to the district court, claiming that the findings of the County were erroneous. After two remands and amended petitions for judicial review, the district court affirmed the decision of the County on July 10, 2010. The district court held that the findings and conclusions of the County were supported by substantial evidence.

Upon appeal, Burns claims the County’s use of the Diggs Comprehensive Plan violates Burns due process rights and cannot be used a regulatory ordinance. Burns also argues that the County’s findings and conclusions were arbitrary and capricious.

BOISE, WEDNESDAY, JANUARY 11, 2012, AT 11:10 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

STONEBROOK CONSTRUCTION, LLC,)	
)	
Plaintiff-Appellant,)	
)	
v.)	Docket No. 37868
)	
CHASE HOME FINANCE, LLC,)	
)	
Defendant-Respondent,)	
)	
and)	
)	
JOSHUA ASHBY and KATRINA ASHBY,)	
husband and wife; ALLIANCE TITLE &)	
ESCROW CORP.)	
)	
Defendants.)	

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bonneville County, Hon. Joel E. Tingey, District Judge.

Smith, Driscoll & Associates, PLLC, Idaho Falls, for appellant.

Hawley Troxell Ennis & Hawley, LLP, Boise, for respondent.

This appeal arises from an action brought by Stonebrook Construction, LLC (Stonebrook or “the LLC”) against Chase Home Finance, LLC (Chase), seeking to foreclose a mechanic’s lien. The district court granted Chase’s motion for summary judgment. The court held that Stonebrook was precluded from placing a lien against the subject property because it did not properly register under the Idaho Contractor Registration Act (ICRA or “the Act”).

Stonebrook appeals, arguing that Chase is not within the class intended to be protected by the ICRA and therefore cannot assert the Act against Stonebrook and, alternatively, that the good-faith registration of one member of the LLC constituted actual or substantial compliance with the requirements of the ICRA. Stonebrook asks this Court to reverse the district court’s grant of summary judgment and remand for further proceedings.